



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,869	07/25/2001	Peter A. Mottur	066441-0107	6274

22428 7590 06/16/2006

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

RAO, ANAND SHASHIKANT

ART UNIT PAPER NUMBER

2621

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/912,869

Applicant(s)

MOTTUR ET AL.

Examiner

Andy S. Rao

Art Unit

2621

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: 88 and 114.
- Claim(s) objected to: _____.
- Claim(s) rejected: 66-69, 71-87, 89-104, 107-113, 115-127.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: the accompanying Examiner's attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No.(s). _____
13. ☐ Other: _____.

ANDY RAO
PRIMARY EXAMINER
Andy S. Rao
Primary Examiner
Art Unit: 2621

Response to the Arguments Presented in the After-Final Amendment

1. Applicant's arguments filed on 4/4/06 with respect to claims 66-69, 71-87, 89-104, 106-113, 115-127 have been fully considered but they are not persuasive.
2. Claims 66-69, 71-87, 89-104, 106-113, and 115-127 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amini et al., (hereinafter referred to as "Amini") in view of Yonezawa, as was set forth in the Office Action of 1/4/06.
3. The Applicant presents four arguments contending the Examiner's rejection of claims 66-69, 71-87, 89-104, 106-113, and 115-127 under 35 U.S.C. 103(a) as being unpatentable over Amini et al., (hereinafter referred to as "Amini") in view of Yonezawa, as was set forth in the Office Action of 1/4/06. However, after a careful consideration of the arguments presented, the Examiner must respectfully disagree for the reasons that follow and maintain the grounds of rejections.

After summarizing the history of prosecution with the application (After Final Amendment of 4/4/06: page 12, lines 1-21; page 13, lines 1-19), and providing a detailed explanation of the scope of the claims with regard to the limitation under discussion (After Final Amendment of 4/4/06: page 13, lines 20-28; page 14, lines 1-12), the Applicants assert that the secondary Yonezawa reference fails to disclose the "...generating variable speed camera control..." because it fails to disclose calculating the speed at which the movement is accomplished (After Final Amendment of 4/4/06: page 14, lines 13-32; page 15, lines 1-15). The Examiner respectfully disagrees. It is noted that Yonezawa discloses the variable speed camera controls are *integrally designated* by a moving frame and expanding/reducing the frame (Yonezawa: column 5, lines 35-37), as in graphic software. It is noted that first derivative of

Art Unit: 2621

position is speed, and conversely integrally designating position in the GUI control means mathematically manipulating velocity, or more particularly differing velocities over the desired interval (i.e. rate of change of velocity). Given this basic tenet of calculus, even though the term “speed” is not mentioned in the reference, the fact that the reference teaches position control of the camera in terms of integral designation inherently accounts for rate of speed calculations for the variable speed camera controls, and one of ordinary skill in the art with a rudimentary understanding of how calculus pertains to the mathematical functions of distance, velocity, and acceleration would see that. Accordingly, the Examiner maintains that the limitation is met.

Additionally, the Applicants argues that Amini fails to disclose “...associating at least one queue...” as in the claims (After Final Amendment of 4/4/06: page 15, lines 16-29; page 16, lines 1-7) and particularly notes that the section of Amini discussed in addressing this feature is mainly directed towards the hierarchical menu selection of a camera for a user (After Final Amendment of 4/4/06: page 16, lines 9-32; page 17, lines 1-7). The Examiner respectfully disagrees. Firstly, the Applicant asserts that selection for control is not control. The Examiner notes that the first step in anything being controlled is “selection” of that item to receive the control commands, and thus selection for control is controlling a camera. However, it is noted that using a menu does not address the “...queue...” part of the limitation. For that, the Examiner notes that Amini does also address this feature. The reference discloses that Amini does not directly forward camera control commands direct to the camera servers, but to a separately addressable device at the client site. The device is solely responsible for receiving camera control commands from an off-site server and forwarding them to the individual cameras, and thus to prevent inundation of image forwarding requests to the cameras. Even though this device is not

Art Unit: 2621

specifically classified by Amini as a queue, the Examiner asserts that this device is indeed a queue as in the recited claims. That is, it functions in the same way as the specified queue of the claims, in taking multiple requests, and associating only one camera with one specific user at a particular time (Amini: column 18, lines 30-45). Accordingly, the Examiner maintains that the limitation is met.

4. Furthermore, the Applicant argues that the prior art must suggest the desirability of the invention and establishing a motivation for the combination of references (After Final Amendment of 4/4/06: page 17, lines 17-25; page 18, lines 1-8). The Examiner respectfully disagrees. The Courts have long established that a different reason from that of the invention can be used as a motivation to combine references as long as that reason is sufficiently disclosed by the art. In response to applicant's argument that the Examiner has not followed the applicant's methodology in making the Amini-Yonezawa combination, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious, *See Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). But that being said, the Examiner notes that Yonezawa does disclose the exact same motivation of greater camera operability through cursor control especially in the summary of invention section of the secondary reference where Yonezawa discloses the multiple objects of the invention (Yonezawa: column 1, lines 33-67; column 2, lines 1-10). Accordingly, the Examiner maintains that motivation is sufficiently provided.

Lastly, the Applicant argues that a result is not the same as a motivating reason as to why one of ordinary skill in the art would attempt to make a combination of references (After Final

Art Unit: 2621

Amendment of 4/4/06: page 18, lines 10-34; page 19, lines 1-8). The Examiner flatly disagrees, and notes that there is a plethora of case law that establish that a result-based analysis of combinable references is supported, and that desired or expected results are obvious modifications, and that unexpected results are non-obvious, *In re Skoner*, 186 USPQ 80 (CCPA 1975). All that is required is that the motivation or desired result is suggested by the references, and in this case, as has been discussed above, the Examiner notes that Yonezawa does disclose the motivation of greater camera operability through cursor control especially in the summary of invention section of the reference where Yonezawa discloses the multiple objects of the invention (Yonezawa: column 1, lines 33-67; column 2, lines 1-10). To further dispute the Examiner's result based motivation, the Applicant offers up a poor analogy of the basis of this rejection with the Wright brothers airplane, arguing that the Office might not have issued that patent based on such a results based rejection. The Examiner notes that if DaVinci's drawings of flying machines had also shown that a results based analysis could have been applied and if this case law were available at the time of the Wright brothers application, it is quite possible that such an outcome could have occurred. However, that is matter best left towards conjecture. Accordingly, the Examiner maintains that a sufficient motivation has been provided.

Allowable Subject Matter

5. Claims 88 and 114 are allowed.

Independent claims 88 and 114 recite a "...usurping control..." feature which is not anticipated nor obvious over the art of record. Accordingly, if finally rejected claims 66-69, 71-

Art Unit: 2621

87, 89-104, 106-113, and 115-127 are canceled, the application would be placed in a condition for allowance.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andy S. Rao
Primary Examiner
Art Unit 2621

asr
June 12, 2006

ANDY RAO
PRIMARY EXAMINER

